

MONTANA LEGISLATIVE HISTORY

Chapter N/A 19 87

Bill H 830 S _____ Original bill & history ✓ C

H. Committee on Natural Res

Hearing Date(s) 2-20 ✓ C

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Date Out _____ C

S. Committee on _____

Hearing Date(s) _____ C

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Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/16 TABLED IN COMMITTEE

INTRODUCED BY WINSLOW
ESTABLISHES A MORATORIUM ON COAL SEVERANCE AND GROSS
PROCEEDS TAXES

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/19 TABLED IN COMMITTEE

INTRODUCED BY COHEN
PROVIDE MEANS OF COMPENSATION TO PUBLIC SERVICE
COMMISSION HEARING INTERVENOR

2/18 INTRODUCED
2/18 REFERRED TO BUSINESS & LABOR
2/19 FISCAL NOTE REQUESTED
2/20 HEARING
2/20 TABLED IN COMMITTEE
2/23 FISCAL NOTE RECEIVED

INTRODUCED BY QUILICI, ET AL.
IMPOSE 20 PERCENT SURTAX ON INDIVIDUALS AND
CORPORATIONS -- 20 PERCENT OF REVENUE TO
UNIVERSITY SYSTEM

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/10 HEARING
3/19 TABLED IN COMMITTEE

INTRODUCED BY KEENAN, ET AL.
EXEMPTS ENVIRONMENTAL REVIEWS FROM THE SMALL MINER
CONFIDENTIALITY PROVISION

2/18 INTRODUCED
2/18 REFERRED TO NATURAL RESOURCES
2/20 HEARING
2/20 TABLED IN COMMITTEE

INTRODUCED BY HOLLIDAY, ET AL.
REQUIRES LICENSING OF WELL PUMP INSTALLERS AND
MONITORING WELL CONSTRUCTORS
BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES &
CONSERVATION

2/18 INTRODUCED
2/18 REFERRED TO NATURAL RESOURCES
2/19 FISCAL NOTE REQUESTED
2/20 HEARING
2/20 COMMITTEE REPORT--BILL NOT PASSED
2/21 ADVERSE COMMITTEE REPORT REJECTED 87 8
2/23 2ND READING PASSED AS AMENDED 86 7
STATEMENT OF INTENT ADOPTED
2/23 FISCAL NOTE RECEIVED
2/25 3RD READING PASSED 89 6

TRANSMITTED TO SENATE
3/02 REFERRED TO NATURAL RESOURCES
3/18 HEARING

1 House BILL NO. 830
2 INTRODUCED BY Reamon Menafan
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT ENVIRONMENTAL
5 REVIEWS FROM CONFIDENTIALITY PROVISIONS PERTAINING TO SMALL
6 MINERS; AND AMENDING SECTION 82-4-306, MCA."
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 82-4-306, MCA, is amended to read:
10 "82-4-306. Confidentiality of application information.
11 Any and all information obtained by the board or by the
12 director or his staff by virtue of applications for
13 exploration licenses and all information obtained from small
14 miners is confidential between the board and the applicant,
15 except as to the name of the applicant, and the county of
16 proposed operation, and any environmental reviews that are
17 prepared by the department; provided that all activities
18 conducted subsequent to exploration and other associated
19 facilities shall be public information and conducted under
20 an operating permit. It is further provided that any
21 information obtained by the board or by the director or his
22 staff by virtue of such applications is properly admissible
23 in any hearing conducted by the director, the board, appeals
24 board, or in any judicial proceeding to which the director
25 and the applicant are parties and is not confidential when a

1 violation of the part or rules has been determined by the
2 department or by judicial order. Failure to comply with the
3 secrecy provisions of this part shall be punishable by a
4 fine of up to \$1,000."

5 NEW SECTION. Section 2. Extension of authority. Any
6 existing authority of the board of land commissioners to
7 make rules on the subject of the provisions of this act is
8 extended to the provisions of this act.

-End-

STATUS SHEET

50th LEGISLATIVE SESSION

NATURAL RESOURCES COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
718	2/16/87	2/16/87	2/18/87	2/18/87							
729	2/16/87	2/16/87	2/18/87			2/18/87					
746	2/18/87	2/18/87	2/20/87			2/20/87					
750	2/18/87	2/18/87	2/18/87			2/18/87					
760	2/18/87	2/18/87	2/18/87	2/18/87							
770	2/18/87	2/18/87	2/20/87	tabled							
775	2/18/87	2/18/87	2/18/87	tabled							
777	2/18/87	2/18/87	2/18/87	2/18/87							
781	3/6/87	3/6/87	3/9/87	tabled							
795	3/4/87	3/4/87	3/11/87			3/11/87					
812	2/20/87	2/20/87	2/20/87	tabled							
830	2/20/87	2/20/87	2/20/87	tabled							
831	2/20/87	2/20/87	2/20/87		2/20/87						
845	Failed to meet transmittal.										

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

Question being called on the Harper amendments, the motion CARRIED, with Reps. Simon, Grady, Harp, Cobb, Smith and Jones voting NO.

REP. HARP moved HB 645 DO PASS AS AMENDED. Question being called, the motion CARRIED, with Reps. Cohen, Addy, Asay, Kadas, Raney, Russell and Strizich voting NO.

REP. PETERSON moved the Statement of Intent to the bill DO PASS. Question was called, a voice vote was taken, the motion CARRIED unanimously.

Rep. Keenan has appeared to present her bill, and Chairman Jones closed Executive Session for now.

HOUSE BILL NO. 830: REP. NANCY KEENAN, District #66, stated the bottom line of HB 830 is the public's right-to-know. Presently, most small mining preliminary environmental reviews are confidential. She stated what this bill does is provide that all activities conducted subsequent to exploration and other associated facilities, shall be public information of the environmental review they are asking for. Presently, if you ask for this review at the Department, they will simply give you the name of the company, and perhaps the county. If you don't know what impacts it may have in your area, we have absolutely no idea of what impact it has to the water, and lakes in the area, and the potential for any impacts that may exist in these areas. She stated most feel this is a good public policy and a "right-to-know" about bill, and she urged the committee to pass this bill, reserving the right to close.

PROPOSERS: GEORGE OCHENSKI representing the Montana Environmental Information Center stated MEIC does support this bill, because it really is a public policy issue. He stated the reason this bill is before you now, has a lot to do with some complaints that were received last summer in the Sweetgrass Hills, and a mine that was being constructed near Georgetown Lake. He stated near this lake, there is a moving water table, and when they dug the pits in this high water table area, he called the Department of State Lands, and asked if he could be informed about what was in fact going on with the pits they were digging. He stated the Department offered the name of the company and the county of operation and that was all the Department cared to offer. He felt this would not help, because he wanted to know what was going to be put in the pits, and the Department would not release this information. So, he feels this bill will help to serve as a public policy bill, stressing the need for the public's right-to-know. He urged the committee's passage of this bill.

OPPONENTS: GARY LANGLEY, Executive Director, Montana Mining Association stated they do oppose this bill. He stated there is actually a good reason for this law to be on the books, and that is when a company applies for an exploration license, the environmental review has to be released before they can get the license. The environmental review tells exactly where the company is operating, exploring and what it's looking for. This would allow them to come in and obtain an exploration license in the same area the first company is exploring. Once the company applies for an operating permit, there is sufficient opportunity for the public then to be involved in the process, and that is when the public rightfully should be notified in the process.

ART WITTICH representing Western Energy Company, stated there is some confusion about the bill, and as Rep. Keenan stated, it does only apply to small miners, however, as stated on page 1, line 13, it presently reads "information from small miners and applications for exploration license are confidential." These exploration licenses can also come from large miners, like Western Energy. They have no problem with the public having environmental information, but there is a fine line between environmental information and geological information. His company has spent considerable sums of money in exploration and he feels this can be compromised if this bill passes.

MIKE MICONE representing the Western Environmental Trade Association stated they do oppose this bill and he believes the concerns that have been raised by the proponents are important concerns, but feels they are concerns that are being addressed by the Department of State Lands already. The confidentiality is an important issue for the mining industry, and he would agree with Mr. Ochenski, that if the committee wishes to consider this matter, it should be put into a subcommittee for a study and possibly report back in 1989.

DENNIS HEMMER representing the Department of State Lands submitted testimony (Exhibit 4). He stated DSL neither supports nor opposes this bill, but consider the following information when reviewing the proposed legislation. The proposed bill will not provide the public with any information about miners who are operating under a Small Miners Exclusion Statement. This also basically eliminates the confidentiality provisions for any information contained in an application for an exploration license. Any and all information in the application may be used in the preparation of an environmental review. Any information the Department determines necessary to prepare the review, will then become public information under the terms of the Act.

In addition, the \$1,000 civil penalty provision for breaching the confidentiality provision, would only be applicable for Small Miners Exclusion Statements and for information for exploration license that was not included in the environmental review.

NO FURTHER OPPONENTS

REP. GRADY asked Dennis after they have made their initial inspection, and then if someone comes in and complains to you that he suspects something going on with a particular miner, that may affect the water in an area, he wondered if DSL could send someone out to investigate this, without disclosing this information.

MR. HEMMER stated they can within certain confines, and in the instance that Mr. Ochenski brought up, he did send an inspector out who did inspect the area, and he then contacted George, and all he could basically tell him was that he did send an inspector out, and they were in compliance with the law. On the Small Miner review instance, we can go out and take a look at it, however, there, we can only look at it from partly over 5 acres, or if they are violating water quality laws.

REP. GRADY stated if they are violating one of these things, what is the Department's recourse.

MR. HEMMER stated in the instance of the small miner, at that point, he has lost his exclusion and he can be prosecuted, both under the Hard Rock Act and under the Water Quality Act. In the instance of exploration, he could be prosecuted under those acts, and he wasn't quite sure what would happen in terms of confidentiality.

REP. SIMON asked Dennis if DSL had this environmental information, and if you are already aware of the activities already going on in a particular area, and simply are not in the position to disclose it, he would then go further and interpret that because you have had someone file the necessary documents, that the Department would then be in the position to monitor and keep an eye on that person to make sure they are staying within the law with regard to their activities and asked Mr. Hemmer if that was a fair assumption.

MR. HEMMER stated that is correct, and commented that they try their best, and is obviously their goal, to monitor these miners to make sure they are in compliance with the law.

In closing, Rep. Keenan stated once the preliminary review is done, this must be released, so that those of us out there know what impacts there will be on the environment. She emphasized that this is a public policy issue and encouraged the committee to at least consider looking seriously at this bill, even though there was a lot of "ha ha" going on back and forth.

HEARING CLOSED ON HB 830.

EXECUTIVE SESSION

HOUSE BILL NO. 770: REP. RUSSELL moved HB 770 DO NOT PASS. She stated Indian tribes currently have a good process working with the State of Montana and other entities. She thinks we are looking at millions of dollars in expenditures, and feels this bill should not pass.

REP. MEYERS stated he felt what the irrigators were trying to accomplish with the bill was simply to get recognition that they have an elected representative who would like to be part of the associating process, not necessarily as a voting member, but in the sense that he be included in the process.

REP. HARPER stated the Reserved Water Rights Compact Commission is doing a ticklish business and everyone understands that. They had some success at Fort Peck with the tribes there, and he stated this bill seems to spring out of the inability of some of the irrigators on the Flathead to even be allowed into the meetings. It makes no sense to try and draw a commission that covers all these different rights on the reservation and still let these people go to court to protect themselves, and whatever comes out of those negotiations, it's at that level that it should be handled and so, his question to these people was, who is representing these people if they are not allowed to be there.

REP. MEYERS then made a substitute motion to TABLE HB 770. Question was then called, the motion CARRIED unanimously.

HOUSE BILL NO. 746: REP. COHEN moved HB 746 DO PASS. He also moved the amendments to the bill and asked Hugh to explain. Hugh distributed copies of the amendments as written into the bill (Exhibit 5). He then went through the bill and explained the amendments.

Question was called on the amendments, the motion CARRIED unanimously. REP. ADDY moved HB 746 DO PASS AS AMENDED. Question being called, the motion CARRIED unanimously. See Standing Committee Report Nos. 1-21.

HOUSE BILL NO. 830: REP. ADDY moved HB 830 DO PASS: REP. PETERSON made a substitute motion that HB 830 DO NOT PASS.

REP. HARPER agreed with Rep. Peterson and made a substitute motion to TABLE HB 830. Question being called, the motion CARRIED, with Reps. Raney, Russell, Addy and Cohen voting NO.

HOUSE BILL NO. 831: REP. SMITH moved HB 831 DO PASS. REP. KADAS moved to amend HB 831 by deleting subsection (a), which would also include renumbering subsequent sections.

DISCUSSION

REP. HARPER stated by eliminating (a), this would then, in essence, say, no one can do this, unless they have two years of experience, and asked the committee to correct him if he was wrong. The committee agreed, and Rep. Kadas moved to correct his amendment by stating, the committee can either go with the amendment, or with the amendment and all the criteria. Rep. Peterson asked Rep. Kadas if it would work by inserting right after subsection (a), "or" and then subsection (b).

HUGH ZACKHEIM, then explained by stating on line 23 after sub (a), you could immediately insert (i) and on lines 24, following board, put the word "or" and on line 25, strike "be" and put "(ii)" and on the following page change all the subsections, so they would then fall into order as being renumbered.

REP. GRADY then made a substitute motion to TABLE HB 831. Question was then called, a roll call vote was taken, the motion FAILED on a 9-9 tie vote.

REP. KADAS then moved the amendment as stated by Hugh, stating he feels this does satisfy the grandfather concern over the application. It is still in the law that they have to meet certain criteria when they install these pumps and monitoring wells, and even those different people that have different criteria, will have to meet the same criteria.

Question was called on the amendment, the motion CARRIED unanimously. REP. ADDY moved HB 831 DO PASS AS AMENDED. Question being called, the motion FAILED on a 10-8 roll call vote.

REP. KADAS then made a substitute motion that HB 831 DO NOT PASS, and moved to reverse the vote. Question was then called on the motion, a voice vote was taken, the motion CARRIED unanimously. REP. KADAS moved the Statement of Intent for the bill and distributed a copy (Exhibit 6). He stated we should at least adopt the Statement of Intent, and since the committee has passed HB 831 out as an adverse committee report, the S of I will serve to hopefully work on the House Floor.